IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY SECOND DAY OF NOVEMBER
TWO THOUSAND AND FIVE

PRESENT

**THE HON'BLE SRI BILAL NAZKI, THE ACTING CHIEF JUSTICE**

**and**
**THE HON'BLE SRI JUSTICE R.SUBHASH REDDY**

**WRIT APPEAL No. 1936 of 2005**

**Between**:

1.Sivareddy Sumathi.

**.....APPELLANT**

**AND**

1. P.V.Subba Rao, and 2 others.

**.....RESPONDENTS**

**JUDGMENT: (Per Hon'ble Sri Bilal Nazki, The Acting Chief Justice)**

The Writ Petition was filed by one P.V.Subba Rao seeking a direction to respondent No.3-Gram Panchayat to implement its resolution dated 30-03-2005. It appears that by resolution dated 30-03-2005, the Gram Panchayat had taken a decision to take on lease the Jetendra Marketing Complex situated at Kovvur, and the writ petitioner claimed to be its owner. The Court found that a resolution had been passed, and therefore, it allowed the writ petitioner to file an application before the Gram Panchayat, and directed the Gram Panchayat to dispose of the application, if any filed by the petitioner, within a period of four

weeks. This Writ Appeal has been filed after seeking leave of this Court by one Sivareddy Sumathi, who claims that the writ petitioner is not the owner of the complex as he along with his son had entered into an agreement of sale with the writ appellant on 26-12-2002, and had also received sale consideration amount of Rs.10,000/-. Thereafter, the writ petitioner and his son did not execute the sale deed although they had even handed over the possession. Therefore, the writ appellant filed a suit for specific performance which is pending before the Civil Court.

Writ Appellant claims that there is an agreement of sale and receipt of the consideration whereas the writ petitioner claims that said document is not genuine. Since there is dispute of title between the writ appellant and the writ petitioner and a suit is already pending before the Civil Court, this Court would not be able to appreciate the controversy in these proceedings, and that controversy would have to be solved by the Civil Court, where the suit is already pending.

We have been informed by the learned Standing Counsel for respondent No.3-Gram Panchayat that the property has already been taken on lease by the Gram Panchayat.

In these circumstances, this Court would not be in a position to pass any order in the matter, and the Writ Appeal has to be dismissed. However, the writ appellant is given liberty to approach the Civil Court, where the suit is pending, to make appropriate application, and the Civil Court may decide the application on merits.

Writ Appeal is, accordingly, dismissed. No costs.

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**(Bilal Nazki, A.C.J)**

22nd November, 2005

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(R.Subhash Reddy, J)

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